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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,910	11/21/2003	Hiroyuki Takahashi	50049-041	7364

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MCDERMOTT WILL & EMERY LLP  
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WASHINGTON, DC 20005-3096

EXAMINER
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HYUN, PAUL SANG HWA

ART UNIT	PAPER NUMBER
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1743

MAIL DATE	DELIVERY MODE
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06/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/717,910

Applicant(s)

TAKAHASHI ET AL.

Examiner

Paul S. Hyun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **REMARKS**

Claims 1-8 are currently pending. Applicants amended claims 1-3, 6 and 8.

The Drawing sheet and the amended Specification filed by Applicants have been acknowledged.

The objection to the Drawings cited in the previous Office action has been withdrawn in light of the submission of the new Drawings.

The claim objections cited in the previous Office action have been withdrawn in light of the amendments.

The claim rejections under 35 U.S.C. section 112 cited in the previous Office action have been withdrawn in light of the amendments.

In the previous Office action, claims 2-7 were indicated as allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph set forth in the Office action. Applicants amended claims 2, 3 and 6 to overcome the rejections and also incorporated the allowable subject matter into claims 1 and 8. However, upon further consideration, new grounds of rejections are made.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

The limitation "has a through hole" recited in line 5 of the claim should be changed to "comprising a through hole".

The limitation "is retained in position" recited in line 6 of the claim should be changed to "retained in position".

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The limitation "the pressure" recited in line 8 should be changed to "a pressure".

Claim 2 is objected to because of the following informalities:

The limitation "lower region of a surface" recited in line 11 of the claim should be changed to "lower surface".

The limitation "an upper region of the surface" recited in line 13 of the claim should be changed to "the upper surface".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **1-8** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "is arranged on an opening of a vessel, and supported with a cap body". It is unclear whether the vessel and the cap body are part of the claimed invention.

The limitation "integrally molded of a plurality of slits" recited in line 7 of claim 2 is unclear. The term "slits" suggests "openings" or "cuts", which are intangible. Therefore, it is not clear how something that is intangible can be integrally molded. Similarly, line

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32 of claim 2 and line 12 of claim 8 recite that the slits come into contact with each other. It is not clear how intangible slits can come into contact with one another. It appears from the language that Applicants intended the term "slits" to mean "flaps formed by slits" or the like.

It is unclear whether the limitation "the periphery" recited in line 8 of claim 2 is referring to the "outer periphery" recited in line 7 of the claim, or another "periphery" of the sealing member.

Claim 2 recites multiple "engaging part". According to the claim, the sealing member comprises an engaging part and the fixing member also comprises an engaging part. Each time the limitation is recited, the claim should clarify which engaging part it is referring to.

Claim 2 recites the limitation "the outer periphery of the hollow cylinder" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites multiple "engaging protrusion". According to the claim, the outer cylinder comprises an engaging protrusion and the cap body also comprises an engaging protrusion. Each time the limitation is recited, the claim should clarify which engaging protrusion it is referring to.

Claim 3 recites the limitation "the sealing member made of an elastic plate having a reasonable thickness". There is insufficient antecedent basis for this limitation in the claim. The claim did not previously establish that the sealing member has a thickness. Therefore, it is improper to refer to the sealing member as "the sealing member made of an elastic plate having a reasonable thickness".

Claim 4 recites the limitation "the rim" and "the extending part". There is insufficient antecedent basis for these limitations in the claim.

Claim 4 also recites the limitation "the inner periphery". Because claim 2 recites multiple inner peripheries, it is not clear which of the two inner peripheries the limitation is referring to.

Claim 7 recites the limitation "the upper periphery". There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites two separate steps, the first step comprising the act of arranging a sealing member, followed by the second step comprising the act of arranging a pressurizing member above the sealing member. The language of the claim suggests that the sealing member and the pressurizing member are individual entities that can be physically separated. However, the claim also recites that a spring member is firmly fixed between the pressurizing member and a fixing member that is arranged on the sealing member, which suggests that the pressurizing member and the sealing

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member are connected as a single piece. The limitations recited in the claim contradict one another.

***Allowable Subject Matter***

Claims 1-7 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Shaw, Jr. (US 4,427,110) discloses a container for handling diapers. It comprises a sealing member having radial slits that define sectors, and a pressurizing member adapted to urge and maintain the sectors of the sealing member in the open position when the pressurizing member is inserted through the plane of the sealing member. However, the pressurizing member disclosed by Shaw, Jr. does not comprise a through hole, which is an essential feature of the claimed invention. The through hole of the claimed invention allows the user to gain access to the inside of the container while the pressurizing member is inserted through the plane of the sealing member. The incorporation of a through hole to the pressurizing member disclosed by Shaw, Jr. also would not have been obvious because the pressurizing means disclosed by Shaw, Jr. must be a solid member to perform its intended function of pushing articles through the slitted sealing member.

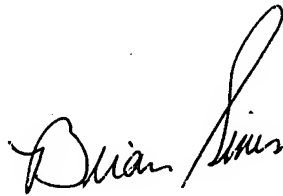
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul S. Hyun whose telephone number is (571)-272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PSH  
6/19/07

A handwritten signature in black ink, appearing to read "Brian Jones". The signature is written in a cursive, flowing style with a large loop at the end.